VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday the 28th day of February, 2002.

Ralph Baker, Et al. Appellants.

against Record No. 012551
Circuit Court No. L9702-28

Powell Mountain Company, Appellee.

From the Circuit Court of Lee County

Upon review of the record in this case and consideration of the argument submitted in support of and in opposition to the granting of an appeal, the Court is of opinion there is no reversible error in the judgment complained of. Accordingly, the Court refuses the petition for appeal.

A copy,

Teste:

David B. Beach, Clerk

By:
Deputy Clerk

VIRGINIA:

IN THE CIRCUIT COURT OF LEE COUNTY

RALPH BAKER, et al.,

Plaintiffs,

v. AT LAW

Case No. L9702-28

POWELL MOUNTAIN COAL COMPANY, Inc.

Defendant.

FINAL ORDER

Based upon the pre-trial briefs, the evidence presented at the ore tenus hearing on December 27 and 28, 2000 and the post-trial briefs, the court finds and rules as follows:

1. The Bakers presented insufficient evidence that there was a defect in the William Pennington 1887 coal severance deed to F.A. Stratton and the Dickenson creditor suit. The Bakers are also estopped by deed to deny the validity of title derived from their own grant (as successors in title). Therefore, Powell Mountain, as successor in interest to the 1887 severance deed, owns record title to the coal under the Cooper Hollow Property.

2. The Bakers have failed to prove by clear and convincing evidence adverse possession of the fee and coal on and under the Cooper Hollow Property as allegedly mined by Samp Baker. Powell Mountain has also acquired by mining adverse possession of the coal under the Cooper Hollow Property.

More than three weeks after the court had announced its decision by letter to counsel and three days after Powell Mountain served its notice to offer this order for entry, the Bakers filed a document styled "Motion for Court to Reconsider Decision to Grant Defendant's Motion to Strike and Objections Entry of Order." To the extent the filing is a motion to reconsider, the court finds the motion asserts no sufficient grounds to change the court's announced decision and it is therefore denied.

Wherefore, it is ADJUDGED and ORDERED that judgment be and is hereby entered in favor of the defendant, Powell Mountain Coal Company, Inc.

This action is stricken from the docket.

Enter, this 16th day of August, 2001.

J. Robert Stump
Circuit Judge

Requested:

PENN, STUART, & ESKRIDGE
Stephen M. Hodges
Counsel for Defendant
Seen, Objected to:

_____

Counsel for Plaintiff, is present and her client refuses to allow her to endorse the Final Order.
8/16/2001
J. Robert Stump